

SHINING A LIGHT ON TORTURE

In his testimony to the Khmer Rouge Tribunal nearly two years ago today, celebrated artist Vann Nath described the scene which provoked him to craft a painting that now hangs at S-21. The scene shows a man being suspended from a wooden frame 'where children used to play', his hands tied behind his back. Another image shows a man being plunged head-first into a large jar of water. The victim, whom Vann Nath described only as 'an artist', met his fate along with thousands of others after confessing under torture. Immortalized through art, his image remains a constant reminder of the anonymity of so many victims of torture, worldwide, whose suffering remains largely unknown and undocumented.



'Painting of S-21 prisoner Vann Nath depicting torture in the yard of Office S-21' was used as evidence in the Khmer Rouge Tribunal (KRT) Case 001 (Kaing Guek Eav alias Duch).

Today marks the International Day in Support of Victims of Torture, an occasion to both remember victims and to highlight the unambiguous and absolute prohibition on torture and all forms of cruel, inhuman and degrading treatment or punishment. It is also the 25th anniversary of the UN Convention Against Torture, which entered into force on 26 June, 1987.

It is worthwhile remembering that torture is defined under international law as the intentional infliction of severe physical or mental pain or suffering, by or on behalf of the authorities, on a person for the purpose of obtaining information, or of punishing, intimidating, or coercing that person or another person.

The prohibition against torture remains a fundamental pillar in the protection and promotion of human rights. Limits can be placed on the exercise of some human rights, but protection from torture is not one of them. Like slavery and genocide, its prohibition is absolute. Orders from a superior are no excuse for committing torture. Sending a person to another country where there is a risk of torture is unacceptable. This all reflects the abhorrence with which the international community views the crime of torture.

No country can be complacent about torture. By its very nature, torture takes place behind closed doors, out of the glare of scrutiny. This can be in prisons and police stations, but also in places as diverse as immigration detention centres, mental health hospitals, social affairs centres or drug treatment centres. People in detention in these places worldwide are at risk of many human rights violations, but torture and deprivation of the right to life are the most serious. For this reason, some specific safeguards need to be in place. Law enforcement personnel must be educated about the prohibition on torture and how to recognize when it occurs. Places of detention must be regularly and independently monitored to reduce the risk of torture. Complaints of torture - or even a reasonable suspicion - must be promptly and impartially investigated, and a system put in place to protect those complainants from intimidation and retaliation. And where torture is found to have occurred, those responsible must be prosecuted and punished in a timely way, and the victim provided compensation.

In light of the country's history, the prohibition on torture has a particular resonance in Cambodia. Many if not most Cambodians are linked to someone who has suffered torture during the Khmer Rouge period, or have been victims themselves. Perhaps more than other societies, Cambodians know only too well the disastrous effects of the crime of torture on those tortured, their families and community as a whole.

It is welcome news then that Cambodia has made efforts to deal with torture committed in the past and to address the risk of torture in the Kingdom today. The trial and sentencing of 'Duch' by the ECCC marks the first time in which a public official has been prosecuted for acts of torture, at least since the Khmer Rouge period. This landmark decision is testament to Cambodia's commitment to saying 'never again' to mass atrocity and the coercive use of force by state officials to extract information or confessions.

At the same time, Cambodia is one of only a handful of States in Asia to have ratified both the UN Convention Against Torture as well as its Optional Protocol. Ratifying the Optional Protocol is particularly significant: governments commit to receive visits from an international Subcommittee on the Prevention of Torture as well as to establish a National Preventive

Mechanism to monitor all places of detention to reduce the risk of torture. Cambodia welcomed the Subcommittee in 2009, providing it with unfettered access to all places of detention. Efforts to establish an independent national preventive mechanism in Cambodia are well under way. The independence, expertise and resources provided to the mechanism will be key to its success.

Educating detainees is one way of reducing the risk of torture. Detainees who are aware of their rights are less likely to be ill-treated. This is why Ministry of Interior, the Ministry of Justice and the Office of the UN High Commissioner for Human Rights have developed an arrest rights card which spells out, in simple language, the rights of people who have been arrested and taken into police custody. We hope that this card will be available shortly in all police stations around the country.

Torture has no place in any society. Most of us would readily agree. Yet instances of torture continue to occur in all countries, developed and developing. Education of officials, lawyers and the general public; independent unannounced monitoring of places of detention; independent and thorough investigations of complaints; prosecution and punishment of torturers: we know these actions reduce the risk of this heinous crime. The challenge now is to put our conviction into action and to remain vigilant.

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